

**ATTENTION ATTENTION ATTENTION**

**Method of Refund:**

*Small Entity*

- ACH/EFT
- Credit Card
- Deposit Account # 20-1430
- Treasury Check

BEST AVAILABLE COPY

Patent/TM/App/Serial # 09,622,703

Program Area Publishing

Date Processed 10-28-05

**ATTENTION ATTENTION ATTENTION**



PTO/SB/21 (09-04)

Sept 11/04

## TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

	Application Number	09/622,703
	Filing Date	August 21, 2000
	First Named Inventor	Hoeffler, Warren K.
	Art Unit	1634
	Examiner Name	Carla J. Myers
Total Number of Pages in This Submission	4	Attorney Docket Number
		022361-000310US

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Return Postcard Inquiry Regarding Duplicative Charge For Issue Fee
Remarks      The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.		

### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Townsend and Townsend and Crew LLP		
Signature			
Printed name	Jennifer L. Wahlsten		
Date	September 7, 2005	Reg. No.	46,226

### CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Signature	
Typed or printed name	Brenda J. Dolly
Date	Sept. 7, 2005

11/08/2005 RCLERONS 00000010 201430 09622703

01 FC:2501 700.00 DA

60581331 v1

BEST AVAILABLE COPY

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

On Sept. 7, 2005

TOWNSEND and TOWNSEND and CREW LLP

By: Brenda J. Dolly

Brenda J. Dolly



PATENT

Attorney Docket No.: 022361-000310US

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Warren Hoeffler

Application No.: 09/622,703

Filed: August 21, 2000

For: METHOD FOR DETERMINING  
TRANSCRIPTION FACTOR ACTIVITY  
AND ITS TECHNICAL USES

Customer No.: 20350

Confirmation No. 8907

Examiner: Carla J. Myers

Technology Center/Art Unit: 1634

INQUIRY REGARDING DUPLICATIVE  
CHARGE FOR ISSUE FEE

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicant writes to inquire regarding the duplicative issue fee charged by the United States Patent and Trademark Office (USPTO) for the above-referenced case on March 29, 2005.

The facts as understood by the Applicant regarding payment of issue fees for the present case are as follows:

1. A first Notice of Allowance and Issue Fee Due was issued by the USPTO on December 8, 2003. The then-current issue fee for a small entity, \$665, was paid on January 23, 2004. A copy of the transmittal for payment of the first issue fee is attached as Exhibit A.
2. A Notice of Withdrawal from Issue under 37 C.F.R. § 1.313(b) was mailed by the USPTO on April 21, 2004. Applicants did not send a written request for reimbursement of

BEST AVAILABLE COPY

the first issue fee payment. There is no record in the file of any reimbursement from the USPTO of the first issue fee.

3. A second Notice of Allowance and Issue Fee Due was issued by the USPTO on December 28, 2004. In the time period between the first and second Notice of Allowances, issue fees for a large entity increased from \$1330 to \$1400, a difference of \$70. Issue fees for a small entity increased from \$665 to \$700, a difference of \$35. *The second issue fee transmittal requested payment for the difference in fees between the first and second Notice of Allowances for a large entity. The second issue fee transmittal did not request payment for a full issue fee.* Applicant intended to pay the \$35 difference in issue fees for a small entity on March 24, 2005. This is reflected in the copy of the transmittal for payment of the second issue fee is attached as Exhibit B.

4. Instead of withdrawing payment for the \$35 difference in issue fees for a small entity from Deposit Account No. 20-1430, the USPTO withdrew payment of \$1365 on March 29, 2005.

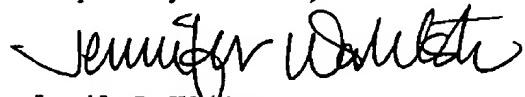
5. The withdrawal of \$1365 for the second issue fee appears to be in error. It appears that the present charge of \$1365 duplicates the first payment of the issue fee, and charges the fee for a large entity. Therefore, the USPTO is respectfully requested to return funds in the amount of \$1330 to Deposit Account No. 20-1430. Applicant will then have paid a total of \$700, the posted issue fee for a small entity.

6. If the USPTO has withdrawn the duplicative charge because Applicant did not specifically request in writing that that first issue fee be applied to payment of the second issue fee, the withdrawal of \$1365 is still incorrect. As a small entity, Applicant owed a total payment of \$700 for payment of the second issue fee. Applicant indicated small entity status on both the first and second issue fee transmittals. The transmittal for the second issue fee intended to pay \$35. Therefore, in withdrawing duplicative issue fees, the USPTO should not have withdrawn any more than \$665. In this case, the USPTO is respectfully requested to return funds in the amount of \$700 to Deposit Account No. 20-1430.

BEST AVAILABLE COPY

If a telephone conference would expedite resolution of this misunderstanding,  
please telephone the undersigned at 415-576-0200.

Respectfully submitted,



Jennifer L. Wahlsten  
Reg. No. 46,226

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, Eighth Floor  
San Francisco, California 94111-3834  
Tel: 415-576-0200  
Fax: 415-576-0300  
Attachments  
WBK:JLW  
60580784 v1

BEST AVAILABLE COPY